

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

FEDERAL TRADE COMMISSION, and
PEOPLE OF THE STATE OF NEW YORK,

Plaintiffs,

v.

HYLAN ASSET MANAGEMENT, LLC,
et al.,

Defendants.

DECISION AND ORDER

18-CV-00710-EAW-JJM

Plaintiffs, the Federal Trade Commission (“FTC”) and the People of the State of New York, commenced this action seeking a permanent injunction and other equitable relief for defendants’ alleged violations of the Federal Trade Commission Act, 15 U.S.C. §41 *et seq.*, and the Fair Debt Collection Practices Act, 15 U.S.C. §1692 *et seq.* Amended Complaint [31].¹ Currently, there is an October 19, 2018 Case Management Order (“CMO”) [44] in effect, which sets deadlines for the completion of pretrial proceedings in the case.

Before the court is the FTC’s unopposed motion for a stay of the case due to the cessation of its funding [49]. For the following reasons the motion is granted.²

¹ Bracketed references are to the CM/ECF docket entries. Unless otherwise indicated page references are to numbers reflected on the documents themselves rather than to the CM/ECF pagination.

² This is a Decision and Order rather than a Report and Recommendation because the grant or denial of a stay is nondispositive. *See Steuben Foods, Inc. v. GEA Process Engineering, Inc.*, 2015 WL 1014588, *1, n. 2 (W.D.N.Y. 2015).

DISCUSSION

On December 31, 2018, the FTC filed its motion for a stay, alleging that it had exhausted its current year appropriations. FTC's Motion [49], p. 1 of 3. The FTC argues that until Congress restores its appropriations, its "attorneys are prohibited from working, even on a voluntary basis, 'except for emergencies involving the safety of human life or the protections of property.'" *Id.* (quoting 31 U.S.C. §1342).

On January 2, 2019, I issued a briefing schedule requiring defendants' responses to the motion to be served by January 4, 2019. Text Order [50].³ The Hylan defendants⁴ have responded that have no objection to the motion [51], but no responses were received from the other defendants. Therefore, the motion is granted as unopposed.

CONCLUSION

For these reasons, the FTC's motion for a stay [49] is granted. The case is stayed until Congress appropriates funds for the FTC. When that occurs, the FTC shall promptly notify the court and the parties, and the CMO deadlines will be extended commensurate with the length of the stay.

SO ORDERED.

Dated: January 7, 2019

/s/ Jeremiah J. McCarthy
JEREMIAH J. MCCARTHY
United States Magistrate Judge

³ The State of New York consents to the motion. FTC's Motion [49], p. 1 of 3, n. 1.

⁴ The "Hylan defendants" collectively refers to all defendants other than Worldwide Processing Group LLC and Frank Ungaro, Jr.